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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SERGIO DE LA TORRE GARCIA; et al.,

Petitioners,

v.

ERIC H. HOLDER, Jr., Attorney General,

Respondent.

No. 08-73047

Agency Nos. A079-521-016  
A079-537-654

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted February 23, 2009<sup>\*\*</sup>

Before: KOZINSKI, Chief Judge, HAWKINS and GOULD, Circuit Judges.

The motion to proceed in forma pauperis is granted. The Clerk shall amend the docket to reflect this status.

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

This is a petition for review from the Board of Immigration Appeals’ (“BIA”) June 18, 2008 decision denying petitioners’ motion to reopen and reconsider.

We have reviewed the record, respondent’s motion for summary disposition, and the opposition thereto. We conclude that summary disposition is appropriate because the questions raised by this petition for review are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard).

The regulations provide that a party may file only one motion to reconsider any given decision, and such motion “must be filed with the Board within 30 days after the mailing of the Board decision.” *See* 8 C.F.R. § 1003.2(b)(2). The regulations also provide that “a party may file only one motion to reopen,” and that the motion “must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened.” *See* 8 C.F.R. § 1003.2(c)(2). The BIA did not abuse its discretion in denying petitioners’ motion, filed more than three years after the BIA entered the final order of removal, as untimely. *See Lara-Torres v. Ashcroft*, 383 F.3d 968, 972 (9th Cir. 2004) (BIA’s denial of a motion to reconsider is reviewed for abuse of discretion); *Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). Moreover, because

petitioners had filed two previous motions to reopen, the BIA did not abuse its discretion in denying the motion as number-barred. Accordingly, respondent's motion for summary disposition is granted.

All other pending motions are denied as moot. The temporary stay of removal shall continue in effect until issuance of the mandate.

**PETITION FOR REVIEW DENIED.**